

AMENDED IN SENATE MARCH 18, 2004

SENATE BILL

No. 1264

**Introduced by Committee on Natural Resources and Wildlife
(Senators Kuehl (Chair), Alpert, Bowen, Denham,
Hollingsworth, Oller, Ortiz, Sher, and Torlakson)**

February 13, 2004

An act to repeal Section 64.5 of the Harbors and Navigation Code, and to amend Sections ~~6331.5~~ 5018.1, 5019.11, 5019.15, 6331.5, and 29777 of, *to amend the heading of Chapter 1.77 (commencing with Section 5097.993) of Division 5 of, to amend and renumber Sections 5097.993, 5097.994, 5097.995, and 5097.996 of, and to repeal Sections 6226, 22054, 25689, and 30237 of, the Public Resources Code, relating to natural resources.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1264, as amended, Committee on Natural Resources and Wildlife. Natural resources.

(1) Existing law requires the Department of Boating and Waterways to make a grant of funds to Lake County to conduct a pilot project until December 31, 1999, of aquatic weed control on Clear Lake in Lake County, under specified conditions.

This bill would repeal that provision.

(2) *Existing law, until January 1, 2005, authorizes the Department of Finance to delegate to the Department of Parks and Recreation the right to exercise the same authority granted to the State Architect and the Real Estate Services Division in the Department of General Services to plan, design, construct, and administer contracts and professional services for legislatively approved capital outlay projects, but permits*

the Department of Finance, until that date, to revoke, at any time, in whole or in part, any of that authority granted to the department.

This bill would extend the repeal date until January 1, 2009, thereby extending the delegation authority to the Department of Finance until that date.

(3) Existing law establishes the Parks Project Revolving Fund in the State Treasury, and requires, upon approval of the Department of Finance, except as provided, the transfer to, or deposit in, the fund of all money appropriated, contributed, or made available from any source, including sources other than state appropriations, for expenditure on work within the powers and duties of the department with respect to the construction, alteration, repair, and improvement of state park facilities, as specified.

Under existing law, these provisions become inoperative on a date that is 3 years after the date that Section 5018.1 of the Public Resources Code is repealed, and are repealed on the following January 1.

This bill would extend the inoperative date until January 1, 2012, and the repeal date until January 1, 2013. With respect to the Department of Parks and Recreation filing claims against the fund for expenditures, the bill would delete a provision requiring the State Controller to draw his or her warrant against the fund.

(4) Existing law requires the Department of Parks and Recreation to implement and administer various programs designed to preserve, protect, and promote historical resources in the state. The California Indian Cultural Center and Museum Task Force exists within the department to assist the department in developing a California Indian Cultural Center and Museum.

This bill would rename that task force the California Indian Heritage Center Task Force to assist in the development of the California Indian Heritage Center.

This bill also would make technical, nonsubstantive changes to correct the numbering of provisions with respect to the task force and the Native American Historic Resource Protection Act.

(5) Existing law requires the State Lands Commission to conduct specified research related to seeps of oil, dry gas, and other hydrocarbon products offshore, and requires the commission to report to the Legislature by January 1, 1978, the results of the research.

The bill would repeal that provision.

~~(3)~~

(6) Existing law requires the State Lands Commission on or before December 31, 1981, to submit to the Legislature a report relating to ungranted tidelands requiring a commission survey.

The bill would delete the date by which the commission is required to submit the report.

~~(4)~~

(7) Existing law requires the Ventura-Los Angeles Mountain and Coastal Study Commission to submit a final report of its activities to the Governor and the Legislature on or before March 8, 1972.

The bill would repeal that provision.

~~(5)~~

(8) Existing law requires the State Energy Resources Conservation and Development Commission to prepare a report examining the benefits to the people of the state from specified projects, and to submit the report to the Legislature on or before January 1, 1990.

The bill would repeal that provision.

~~(6)~~

(9) Existing law requires the Delta Protection Commission to prepare and submit to the Governor and the Legislature, on or before December 31, 1993, a report relating to funding for its activities and operations.

The bill would delete that provision.

~~(7)~~

(10) Existing law authorizes Orange County or any landowner to petition the Department of Fish and Game, on or before October 1, 1983, to prepare a habitat conservation plan pertaining to the Bolsa Chica Wetlands, and requires the department and the State Coastal Conservancy, upon receipt of the petition, to prepare a habitat conservation plan, as specified, for submission to the California Coastal Commission.

The bill would repeal that provision.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 64.5 of the Harbors and Navigation
- 2 Code is repealed.
- 3 SEC. 2. *Section 5018.1 of the Public Resources Code is*
- 4 *amended to read:*



1 5018.1. (a) Notwithstanding any other provision of law, the
2 Department of Finance may delegate to the department the right
3 to exercise the same authority granted to the Division of the State
4 Architect and the Real Estate Services Division in the Department
5 of General Services, to plan, design, construct, and administer
6 contracts and professional services for legislatively approved
7 capital outlay projects.

8 (b) Any right afforded to the department pursuant to
9 subdivision (a) to exercise project planning, design, construction,
10 and administration of contracts and professional services may be
11 revoked, in whole or in part, by the Department of Finance at any
12 time prior to January 1, 2005 2009.

13 (c) This section shall remain in effect only until January 1,
14 2005 2009, and as of that date is repealed, unless a later enacted
15 statute, that is enacted before January 1, 2005 2009, deletes or
16 extends that date.

17 *SEC. 3. Section 5019.11 of the Public Resources Code is*
18 *amended to read:*

19 5019.11. The department shall file against the fund all claims
20 covering expenditures incurred in connection with services, new
21 construction, major construction and equipment, minor
22 construction, maintenance, improvements, and equipment, and
23 other building and improvement projects, ~~and the Controller shall~~
24 ~~draw his or her warrant therefor against that fund.~~

25 *SEC. 4. Section 5019.15 of the Public Resources Code is*
26 *amended to read:*

27 5019.15. This article shall become inoperative on a date that
28 ~~is three years after the date that Section 5018.1 is repealed~~ January
29 1, 2012, and, as of January 1 ~~immediately following that~~
30 ~~inoperative date, 2013~~, is repealed, unless a later enacted statute
31 that is enacted before ~~that~~ January 1, 2012, deletes or extends the
32 dates on which it becomes inoperative and is repealed.

33 *SEC. 5. The heading of Chapter 1.77 (commencing with*
34 *Section 5097.993) of Division 5 of the Public Resources Code is*
35 *amended to read:*
36

CHAPTER 1.77. CALIFORNIA INDIAN ~~CULTURAL HERITAGE~~
CENTER AND MUSEUM TASK FORCE

SEC. 6. Section 5097.993 of the Public Resources Code is amended and renumbered to read:

~~5097.993.~~

5097.997. For the purposes of this chapter, the following terms have the following meanings:

(a) “~~Cultural Heritage center~~” means the California Indian ~~Cultural Heritage Center and Museum~~.

(b) “Task force” means the California Indian ~~Cultural Heritage Center and Museum~~ Task Force as described in Section ~~5097.994~~ 5097.998.

SEC. 7. Section 5097.994 of the Public Resources Code is amended and renumbered to read:

~~5097.994.—~~

5097.998. (a) The California Indian ~~Cultural Heritage Center and Museum~~ Task Force is hereby created within the department. The task force shall be convened by the department on or before February 1, 2003.

(b) The task force shall consist of 9 voting members, appointed as follows:

(1) Three members from separate California Indian tribes, appointed by the director. Each member shall reside in California at the time of appointment. The director shall consider geographic and cultural diversity when making the appointments.

(2) Two members from California Indian tribes shall be appointed by the Executive Secretary of the Native American Heritage Commission. In making these appointments, the executive secretary shall select those individuals who have demonstrated an expertise in any of the following areas:

(A) American Indian education.

(B) California Indian arts, culture, and language.

(C) California Indian history.

(3) One member shall be the director or his or her designee. This member shall serve as the executive secretary of the task force and coordinate work product and assistance with the department.

(4) One member shall be the Executive Secretary of the Native American Heritage Commission or his or her designee.

1 (5) One member shall be the State Librarian or his or her
2 designee.

3 (6) One member shall be the Secretary of the Resources
4 Agency or his or her designee.

5 (c) The task force shall elect a chairperson and determine the
6 term of office of the chairperson by majority vote.

7 (d) Members of the task force may not receive any state
8 compensation for their services or be reimbursed for travel or per
9 diem expenses.

10 (e) The duties and responsibilities of the task force shall
11 include, but shall not be limited to, all of the following:

12 (1) ~~Make~~ *Making* recommendations to the department on the
13 potential siting of the ~~cultural~~ *heritage* center. Every effort shall be
14 made to site the ~~cultural~~ *heritage* center within proximity of other
15 cultural and historical facilities. The siting recommendations shall
16 also take into consideration the public accessibility of the facility.
17 A task force report on the potential sites for the ~~cultural~~ *heritage*
18 center shall be delivered to the department no later than one year
19 after the task force is convened.

20 (2) ~~Advise~~ *Advising* and ~~make~~ *making* recommendations to the
21 department on the cultural concepts and designs of the ~~cultural~~
22 *heritage* center.

23 (3) ~~Establish~~ *Establishing* and ~~maintain~~ *maintaining*
24 communication between tribes, museums, and local, state, and
25 federal agencies.

26 (4) ~~Request~~ *Requesting* and ~~utilize~~ *utilizing* the advice and
27 services of tribes, museums, and local, state, and federal agencies
28 as needed to carry out the objectives of this chapter.

29 (5) ~~Develop~~ *Developing* and ~~recommend~~ *recommending* to the
30 department a governing structure for the ongoing operation of the
31 ~~cultural~~ *heritage* center.

32 (6) ~~Prepare~~ *Preparing* and ~~submit~~ *submitting* to the Legislature
33 an annual report detailing the task force's activities and progress
34 towards establishing the ~~cultural~~ *heritage* center.

35 (f) The task force's responsibilities shall be complete and its
36 duties discharged when the ~~cultural~~ *heritage* center is completed
37 and the department has adopted a governing structure for the
38 completed ~~cultural~~ *heritage* center. The director may terminate the
39 task force prior to that time, but only if the director obtains
40 approval from two-thirds of the task force members.

(g) The department shall make every effort to encourage nonstate participation and partnerships in the development and construction of the ~~cultural~~ heritage center.

SEC. 8. Section 5097.995 of the Public Resources Code is amended and renumbered to read:

~~5097.995.—~~

5097.993. (a) (1) ~~Any~~ A person who unlawfully and maliciously excavates upon, removes, destroys, injures, or defaces a Native American historic, cultural, or sacred site, that is listed or may be eligible for listing in the California Register of Historic Resources pursuant to Section 5024.1, including any historic or prehistoric ruins, any burial ground, any archaeological or historic site, any inscriptions made by Native Americans at such a site, any archaeological or historic Native American rock art, or any archaeological or historic feature of a Native American historic, cultural, or sacred site, is guilty of a misdemeanor if the act was committed with specific intent to vandalize, deface, destroy, steal, convert, possess, collect, or sell a Native American historic, cultural, or sacred artifact, art object, inscription, or feature, or site, and the act was committed as follows:

(A) On public land.

(B) On private land, by a person, other than the landowner, as described in subdivision (b).

(2) A violation of this section is punishable by imprisonment in the county jail for up to one year, by a fine not to exceed ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(b) This section does not apply to any of the following:

(1) ~~Any~~ An act taken in accordance with, or pursuant to, an agreement entered into pursuant to subdivision (l) of Section 5097.94.

(2) ~~Any~~ An action taken pursuant to Section 5097.98.

(3) ~~Any~~ An act taken in accordance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(4) ~~Any~~ An act taken in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.).

(5) ~~Any~~ An act authorized under the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4).

(6) ~~Any~~ An action taken with respect to a conservation easement in accordance with Chapter 4 (commencing with Section 815) of Division 2 of the Civil Code, or any similar nonperpetual enforceable restriction that has as its purpose the conservation, maintenance, or provision of physical access of Native Americans to one or more Native American historic, cultural, or sacred sites, or pursuant to a contractual agreement for that purpose to which most likely descendents of historic Native American inhabitants are signatories.

(7) ~~Any~~ An otherwise lawful act undertaken by the owner, or an employee or authorized agent of the owner acting at the direction of the owner, of land on which artifacts, sites, or other Native American resources covered by this section are found, including, but not limited to, farming, ranching, forestry, improvements, investigations into the characteristics of the property conducted in a manner that minimizes adverse impacts unnecessary to that purpose, and the sale, lease, exchange, or financing of real property.

(8) Research conducted under the auspices of an accredited postsecondary educational institution or other legitimate research institution on public land in accordance with applicable permitting requirements or on private land in accordance with otherwise applicable law.

SEC. 9. Section 5097.996 of the Public Resources Code is amended and renumbered to read:

~~5097.996.—~~

~~5097.994.~~ (a) ~~Each~~ A person who violates subdivision (a) of Section ~~5097.995~~ 5097.993 is subject to a civil penalty not to exceed fifty thousand dollars (\$50,000) per violation.

(b) A civil penalty may be imposed for each separate violation of subdivision (a) in addition to any other civil penalty imposed for a separate violation of any other provision of law.

(c) In determining the amount of ~~any~~ a civil penalty imposed pursuant to this section, the court shall take into account the extent of the damage to the resource. In making the determination of damage, the court may consider the commercial or archaeological value of the resource involved and the cost to restore and repair the resource.

(d) A civil action may be brought pursuant to this section by the district attorney, the city attorney, or the Attorney General, or by

1 the Attorney General upon a complaint by the Native American
2 Heritage Commission.

3 (e) (1) All moneys collected from civil penalties imposed
4 pursuant to this section as a result of an enforcement action
5 brought by a city or county shall be distributed to the city or county
6 treasurer of the city or county that brought the action. These
7 moneys shall be first utilized to repair or restore the damaged site,
8 and the remaining moneys shall be available to that city or county
9 to offset costs incurred in enforcing this chapter.

10 (2) All moneys collected from civil penalties imposed pursuant
11 to this section as a result of an enforcement action brought by the
12 Attorney General shall be first distributed to, and utilized by, the
13 Native American Heritage Commission to repair or restore the
14 damaged site, and the remaining moneys shall be available to the
15 Attorney General to offset costs incurred in enforcing this chapter.

16 *SEC. 10.* Section 6226 of the Public Resources Code is
17 repealed.

18 ~~*SEC. 3.*~~

19 *SEC. 11.* Section 6331.5 of the Public Resources Code is
20 amended to read:

21 6331.5. The commission shall make an inventory to ascertain
22 and describe by metes and bounds the location and extent of all
23 ungranted tidelands. The commission shall, in a local agency
24 where the ungranted tideland boundary is described by metes and
25 bounds, acquire and evaluate the existing boundary description to
26 determine whether or not additional surveys should be conducted.
27 When available, the local agency shall provide copies of the
28 descriptions, together with all materials supporting the
29 descriptions, including field notes and other basic data, to the
30 commission at no cost, other than the reproduction cost, to the
31 state.

32 No appropriation is made by the act adding this section, nor is
33 any obligation created thereby, for the reimbursement of a local
34 agency for any costs, other than reproduction costs, that may be
35 incurred by it in carrying on a program or performing a service
36 required to be carried on or performed by it by this section.
37 Reimbursements for reproduction expenditures shall be made by
38 the commission from appropriations to the commission for the
39 preparation of the inventory.

1 The commission shall evaluate each survey and shall adopt
2 boundary descriptions already in common use where these metes
3 and bounds descriptions approximate the existing line of ordinary
4 high water where it is in a state of nature, or where the descriptions
5 approximate the last position occupied in a state of nature by the
6 line of ordinary high water in areas where the existing shoreline
7 has ceased to be in a state of nature, and where sound engineering
8 practices were used to conduct the survey. The inventory and
9 evaluation shall commence on January 1, 1976, and shall be
10 completed on or before December 31, 1981. If metes and bounds
11 descriptions of tideland boundaries are not available, or if the
12 surveys do not describe the tideland boundary in a state of nature
13 as hereinbefore defined, or if unsound engineering practices were
14 used to describe a tideland boundary, the commission may conduct
15 its own survey. Unless otherwise provided by law, prior to
16 undertaking a survey on any ungranted tidelands, the commission
17 shall prepare an inventory of those ungranted tidelands which will
18 require a commission survey and shall submit a report of its
19 findings to the Legislature. The report shall contain a geographic
20 identification of the ungranted tidelands that will require a survey,
21 a plan establishing priorities for the orderly conduct of the needed
22 surveys, and an estimate of the cost needed to complete ~~such~~ *the*
23 surveys.

24 ~~SEC. 4.—~~

25 *SEC. 12.* Section 22054 of the Public Resources Code is
26 repealed.

27 ~~SEC. 5.—~~

28 *SEC. 13.* Section 25689 of the Public Resources Code is
29 repealed.

30 ~~SEC. 6.—~~

31 *SEC. 14.* Section 29777 of the Public Resources Code is
32 amended to read:

33 29777. The commission shall not incur costs in excess of the
34 amount of funds available for expenditure by the commission in
35 any fiscal year.

36 ~~SEC. 7.—~~

37 *SEC. 15.* Section 30237 of the Public Resources Code is
38 repealed.

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